

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed June 27, 2008. At the time of the Final Office Action, Claims 14-23 were pending in this Application. Claims 14-23 were rejected. Claims 14, 18, 19, and 20 have been amended to further define various features of Applicants' invention. Claims 1-13 were previously cancelled without prejudice or disclaimer. Applicants respectfully request reconsideration and favorable action in this case.

Claim Objections

Claims 14-23 were objected to under 37 CFR 1.75(a), as failing to particularly point out and distinctly claim the subject matter which application regards as his invention or discovery. Applicants amend Claims 14 to overcome these rejections and respectfully request full allowance of Claims 14 as amended.

Specification Objections

The Examiner requested clarification of equation (1). The term $v(m, r)$ designates the set of the optimized motion vectors from the set of motion vectors $V(m)$ wherein the term $v(m, r)$ designates the optimum motion vector depending on the used macro block coding mode and depending on the reference image r . the variable v with $v \in V(m)$ represents a motion vector from the set $V(m)$ wherein in the equation (1) that motion vector is selected for which the Lagrange function is minimized with a defined combination (m, r) .

Regarding the bold face arguments used in the specification and the non bold face arguments there exists no difference. Applicants amend the respective paragraphs.

Rejections under 35 U.S.C. §103

Claims 14-17 were rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of U.S. Patent Application Publication No. 2003/0031128 by Jin-gyeong Kim et al. ("*Kim*") and U.S. Patent Application Publication No. 2002/0126757 by Hyun-cheol Kim et al. ("*Kim02*"). Applicants respectfully traverse and submit the cited art combinations, even

if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

Claims 18-23 were rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of *Kim* and *Kim02* as described above, and further in view of U.S. Patent No. 6,078,618 issued to Yutaka Yokoyama et al. ("*Yokoyama*"). Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int'l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on ex post reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

Applicants amended independent claim 14 to include the limitation "coding a different number of macro blocks of the images by a second intra-coding mode or by an inter-coding mode, wherein motion vectors for the macro blocks that are coded in the inter-coding mode are selected from a set of accessible reference images." This limitation is disclosed in the originally submitted specification, for example, on page 4, lines 19. Thus, no new matter has been introduced.

Neither KIM nor KIM02 disclose this limitation. Hence, Applicants believe that the independent claim 14 is patentable with respect to the cited references. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

Association of Customer Number and Change of Correspondence Address

Applicants respectfully request that all papers pertaining to the above-captioned patent application be associated with Customer No. **31625**, and direct all correspondence pertaining to this patent application to practitioners at Customer Number **31625**. All telephone calls should be directed to Andreas Grubert at 512.322.2545. A Revocation and Power of Attorney is submitted herewith.

CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicants

A handwritten signature in black ink, appearing to read 'A. Grubert', with a stylized flourish at the end.

Andreas Grubert
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Date: September 26, 2008

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PATENT APPLICATION
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**APPENDIX
AMENDED DRAWINGS**